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No. _____

IN THE SUPREME COURT OF THE UNITED STATES

October Term, 1983

GERALD P. HANSON
Petitioner,

v.

ROCKY WATSON, SHERIFF OF KOOTENAI COUNTY, STATE OF IDAHO, et al,
Respondents.

ON APPEAL FROM THE SUPREME COURT OF IDAHO

PETITION FOR WRIT OF RIGHT FOR ORDER TO SHOW CAUSE WHY A PETITION FOR WRIT OF HABEAS CORPUS SHOULD NOT BE ISSUED BY THE STATE OF IDAHO

DOES THE STATE HAVE TITLE OVER THE PETITIONER SO THAT THEY CAN DENY A HABEAS CORPUS WHEN THERE IS NO REBELLION AND THERE HAS BEEN NO INVASION

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The prosecutors application must contain the certification that the ends of justice require the arrest and return of the accused to the demanding state for trial and that the proceeding is not instituted to enforce a private claim. Further, the State of Washington was required to give two certified copies of the extradition to the governor of Idaho and that this extradition requisition must have been accompanied by two certified copies of the court papers involved.

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QUESTIONS PRESENTED

AND

ANSWERS DEMANDED

ON TITLE AND HABEAS CORPUS

1. Did the state or a government entity ever obtain TITLE to the petitioner? If so, how and when?

2. Does the court have proof that the petitioner gave TITLE to the state or court? If so, was TITLE given voluntarily or was it taken involuntarily? If TITLE was voluntarily given, was it taken by the state, court or church by fraud and deceit through misrepresentation? If TITLE was obtained by the state, court or church involuntarily, was it by coersion or threat that the state, court or church have taken TITLE to the petitioner? Or do they merely assume TITLE?

3. Does a citizen have to obtain permission from the state, after he/she

has received a marriage license or drivers license, to carry on his/her private life?

4. If a citizen obtains a drivers license or marriage license, or both, does that citizen give up his/her constitutional rights?

5. Does a citizen give TITLE of himself to the state by obtaining the drivers license, marriage license or other licenses?

6. Did the state gain TITLE to the petitioner because his parents obtained a marriage license?

7. If the answer to question number 6 is yes, did the state inform these persons it would gain TITLE to them when they applied for the said license?

8. If the state can acquire TITLE to a person, when did a human being become property? Is this involuntary

servitude?

9. If the petitioner was told that if he did not obtain a marriage license from the state and get married in the church, the petitioner would be living in sin, is this fraud and deceit by misrepresentation when the ones telling the petitioner were licensed by the state to perform marriages which then gave TITLE to the petitioner to the state?

10. If the petitioner was told by a highway patrolman, state Attorney General, judge or attorney that he must have a drivers license in order to go from one point to another point, whether it is across the state or across the United States, and the petitioner was not told that if he obtained this drivers license he would be giving up his constitutional rights and placing himself under Admiralty Jurisdiction, which is Maritime Law, is this not fraud and deceit by misrepresen-

tation? And conspiracy on the part of the ones who told the petitioner?

11. If the state has never shown TITLE to a person in its original pleading, can the state cure the defect in amended or future pleadings?

12. If the state does have TITLE to the petitioner, and has obtained this TITLE by fraud and deceit through misrepresentation and conspiracy, do they or do they not lose jurisdiction in an extradition proceeding?

13. If Habeas Corpus has been denied to the petitioner by a state court, does this mean the state has TITLE to the petitioner? Or is the state court merely under Admiralty Jurisdiction which is Maritime Law? If so, then is it not conspiracy on the part of those denying the Habeas Corpus and on the part of those issuing the warrant on Information?

14. Does the State of Idaho have a

right to arrest and jail the petitioner who is wanted in the State of Washington on just Information, if the State of Washington has not shown TITLE to the petitioner?

15. Are the several states bound under the United States Constitution?

16. Are the states bound to obey the edicts of the United States Constitution in and under all circumstances? In particular, the right to Writ of Habeas Corpus?

17. Other than provided by the United States Constitution, Article 1, Section 9, Clause 2, when may a state deny the "Writ of Habeas Corpus"?

18. Are all judges in the United States of America bound by Article VI, Clause 2 of the United States Constitution?

19. Can a judge or a prosecuting attorney use his office to harass and

intimidate the petitioner who has filed a lawsuit against them and placed liens . on their property according to Washington State Code (Revised Code of Washington) when the lawsuit and the liens were placed in good faith and for the good of the public safety?

20. Can a judge, prosecuting attorney, Attorney General or law officer use their offices to put out a warrant by Information for the arrest of the petitioner just for the simple fact that the petitioner placed a lawful lien on their property?

21. If the petitioner threatened to do something lawful (such as to sue another person) can the petitioner who made the threat be charged with a crime?

22. If the petitioner threatened a public official with a law suit, on the grounds that the public official was

not doing his duty, can that threat be considered a crime or misdemeanor under the United States Constitution?

23. Can the petitioner (a sovereign citizen) be arrested and held to answer for an infamous crime by Information only when the state has failed to show that they have TITLE over the petitioner?

24. The petitioner is in danger of going to the county jail or prison for more than a year as he is being charged with one (1) felony and fifty-four (54) misdemeanor counts, does that come under the infamous crime clause of the 5th Amendment of the United States Constitution?

25. Can the courts sentence a citizen to a county jail on a misdemeanor for a year and a day?

26. If the answer to question number 25 is yes, can the courts sentence a person to the county jail for fifty years

on fifty different misdemeanor counts? Or does this apply to the infamous crime clause of the 5th Amendment of the United States Constitution?

27. Once the petitioner is charged with a certain crime, which the state knows cannot hold, do they have the authority, under the United States Constitution, to immediately, upon dismissal of the first charge, file another false charge?

28. If the petitioner is not legally or lawfully a fugitive under the United States Constitution, does the state have a right to extradition without a hearing?

29. If the petitioner is not legally or lawfully a fugitive under the United States Constitution, does the state have a right to extradition with a hearing?

30. Does "excessive bail" mean bail that is in excess of the fine which could be imposed by law for a given

misdemeanor or crime?

31. Does the United States Supreme Court have the authority to order a state court or prosecutor to pay to the victim whom they have victimized, the excessive bail which they have collected plus compounded interest?

32. Does the state court have to pay the victim whom they have victimized the excessive bail which they have collected plus compounded interest?

33. Where does it state in the United States Constitution that the court can profit from an illegal act?

END OF QUESTIONS PRESENTED

No._____

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PETITION FOR WRIT OF RIGHT
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SHOULD NOT BE ISSUED
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DOES THE STATE HAVE TITLE
OVER THE PETITIONER SO THAT
THEY CAN DENY A HABEAS CORPUS
WHEN THERE IS NO REBELLION AND
THERE HAS BEEN NO REBELLION AND
THERE HAS BEEN NO INVASION

Petitioner demands that a Writ of Right in Order to Show Cause Why a Petition for Writ of Habeas Corpus should not be issued to review the judgment and opinion of the Idaho State Supreme Court as the Idaho State Court of Appeals denied my Habeas Corpus and the Idaho State Supreme Court refused to hear my appeal. In the denial by the Court of Appeals, they did not show that they ever had TITLE over my person and the State of Washington had not shown to the State of Idaho that Washington State ever had TITLE over my person.

If the state does not show TITLE, it cannot correct this defect in amended or future pleadings.

OPINION BELOW

The opinion of th Idaho State Court of Appeals will be published, and the Supreme Court of Idaho did not issue an opinion. The opinion of the Idaho Court

of Appeals appears in the Appendix hereto.

JURISDICTION

The decision by the Idaho State Court of Appeals was handed down on August 18, 1982. Petitioner then appealed to the Idaho State Supreme Court. Petitioner received a letter from the Idaho State Supreme Court Clerk stating that the Petition for Writ of Habeas Corpus was denied. This letter was dated December 30, 1982. The petitioner then had ninty (90) days in which to appeal to the United States Supreme Court and is doing so now. Petition for Writ of Right was filed within ninty (90) days of that date. This Court's jurisdiction is invoked under Article 1, Section 9, Clause 2 of the United States Constitution, which states:

> "The Privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it."

Since there is no Rebellion or Invasion on the part of the petitioner, or otherwise, it shall be granted.

CONSTITUTIONAL PROVISIONS INVOLVED

In addition to the Constitutional provisions stated under Jurisdiction, we add:

United States Constitution, Fifth Amendment:

> "No person shall be. . . deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation."

United States Constitution, Fourteenth Amendment:

> Due Process Clause.
> "(N)or shall any state deprive any person of life, liberty or property, without due process of law. . . . "

United States Code, Title 42:

> Section 1983, Civil action for deprivation of rights.
>
> "Every person, who under color of any statute, ordinance, regulation, custom, or usage, of any State of Territory, subjects or causes to be subjected, any citizen of the

United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and Laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress."

STATEMENT OF THE CASE

Petitioner, Gerald P. Hanson, has filed Common Law lawsuits and Common Law Liens against judges, lawyers and other persons, suing them as individuals, in the State of Washington. These persons were sued as they had threatened the Petitioner and his family and caused damages and loss of time and money and caused much stress, strain and unhappiness.

These same persons had cut off or had caused to be cut off the water line of the petitioner, so that petitioner could not have any water to his home, in spite of the fact that petitioner had paid-up receipts for said water service. Petitioner then sued them for their

criminal acts, and they and their judge and attorney friends had caused all of petitioner's lawsuits to be dismissed, instead of permitting petitioner's duly filed cases to proceed, which would have permitted a jury decision on his claims, thereby denying petitioner his due process of law.

These persons, who were parties of interest in petitioner's law suit, then conspired together and with each other and caused to be put against petitioner criminal felony charges under civil statutes (R.C.W. 9A.76.180) and misdemeanor charges (R.C.W. 9.38.020), all charged against petitioner on INFORMATION only -- and not by grand jury indictment as is called for in Amendment V of the United States Constitution:

> "No person shall be held to answer for a capital or infamous crime, unless on a presentment or indictment of a Grand Jury...."

Further, criminal matters cannot merge into civil matters or civil into criminal, and the actions of Gerald P. Hanson, petitioner, are totally civil matters.

Further, Gerald P. Hanson, petitioner has sued all the parties as private individuals and he did not sue the government entity.

The petitioner, Gerald P. Hanson, was not in the state of Washington, but in Colorado at the time this INFORMATION was issued. Gerald P. Hanson has not been a fugitive from justice as this is defined as:

> "a person...who shall <u>flee</u> from justice"

Petitioner did not <u>flee</u> from justice, as he was not in the state of Washington, nor has he been into the state of Washington since prior to the INFORMATION

being issued.

The persons charging petitioner used R.C.W. 9.38.020 covering false representation concerning titles. Petitioner's lawsuits and liens were not filed falsely or with malicious intent to harm anyone, but because the persons sued had violated the petitioner's rights and liberty and also for lawful protection of the petitioner's just claims against said persons, and for lawful protection of petitioner's and petitioner's family's life and property and to assure petitioner his due process of law, i.e., a Common Law jury trial of twelve (12) persons who could rule on the justice of law and the facts of the case.

The person signing the "Information" for petitioner's arrest in Washington state, is a party involved in the litigation with petitioner, Gerald P. Hanson. As a party of interest, he has no right

or authority to order the arrest of his adversary.

Further, the judges charging petitioner in this case are judges who have taken an Oath of Office to support the Constitutions of the United States and the State of Washington. The Oath of Office is a contract to support and uphold the Constitutions and they do not uphold the Constitutions and have thereby breached the Faith of their Contract.

The authorities of the State of Idaho, in honoring the Extradition request of the State of Washington, are conspiring with the authorities of the State of Washington and are guilty of compounding the offense against the petitioner by refusing to grant the petitioner the Writ of Habeas Corpus.

Further, my former Idaho attorney, Mike Vrable, has stated to me that the Washington authorities are planning to

keep me in jail for 90 days even though they don't have a case against me. They would try to keep me there without bail, just to try to get even with me. This type of Gestapo action violates the 13th Amendment of the United States Constitution:

> Amendment XIII, Section 1. Slavery and involuntary servitude abolished. Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction."
>
> Section 2. Enforcement. Congress shall have power to enforce this article by appropriate legislation."

Such actions are also in direct violation of the ANTI-PEONAGE ACT of March 2, 1867, from the "United States Statutes" At large Vol. 14.

> THIRTY-NINTH CONGRESS. Sess II. CH. 187, 188. 1867. Chap. CLXXXVII. - An Act to abolish and forever prohibit the System of Peonage in the Territory of New Mexico and other Parts of the United States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the holding of any person to service or labor under the system known as peonage is hereby declared to be unlawful, and the same is hereby abolished and forever prohibited in the Territory of New Mexico, or in any other Territory or State of the United States; and all acts, laws, resolutions, orders, regulations, or usages of the Territory of New Mexico, or of any other Territory or State of the United States, which have heretofore established, maintained, or enforced or by virtue of which any attempt shall hereafter be made to establish, maintain, or enforce directly or indirectly, the voluntary or involuntary service or labor of any person as peons, in liquidation of any debt or obligation, or otherwise, be, and the same are hereby, declared null and void; and any person or persons who shall hold. arrest, or return or cause to be held, arrested, or returned, or in any manner aid in the arrest or return of any person or persons to a condition of peonage, shall, upon conviction, be punished by fine not less than one thousand nor more than five thousand dollars, or by imprisonment not less than one nor more than five years, or both, at the discretion of the court.

Sec. 2. And be it further enacted, That it shall be the duty of all persons in the military or civil service in the Territory of New

> Mexico to aid in the enforcement of the foregoing section of this act; and any person or persons who shall obstruct or attempt to obstruct, or in any way interfere with, or prevent the enforcement of this act, shall be liable to the pains and penalties hereby provided; and any officer or other person in the military service of the United States who shall so offend, directly or indirectly, shall, on conviction before a court-martial, be dishonorably dismissed the service of the United States, and shall thereafter be ineligible to reappointment to any office of trust, honor, or profit under the government.
>
> Approved, March 2, 1867.

The judges and lawyers in the State of Washington and all parties named in the Complaint which petitioner filed in the State of Washington, are the same people that petitioner has sued and on whose property he has placed liens according to the statutes of the State of Washington. Some of these same persons are the ones who filed the criminal charges aginst the petitioner. Lis Pendens Liens states that whenever one brings an action against another

party, one must give notification to the public in general with a lis pendens lien, or better yet, a Common Law Lien to show that litigation is pending with that party.

The I.R.S. also files "Equity" Liens without benefit of prior court determination of the validity or accuracy of said liens. Under the equal protection clause of Amendment XIV, Section 1 of the United States Constitution, if their liens are permitted, so are the liens which the petitioner has filed.

Further, the I.R.S. is a corporation entity and therefore cannot enjoy Common Law Rights and Immunities, which would mean that they cannot attach property unless they have TITLE over that person.

With petitioner following the law, what gives his adversaries the right to come back at him with a false and frivolous criminal charge which they know full

well will not hold up in court. It is also a known fact, that all the liens that were placed on their property, must be taken off by the person who put them on, so they will still wind up in court to adjudicate the liens.

The courts have issued a permanent injunction against the petitioner to prevent him from filing any court papers, thereby removing from petitioner his rights under the United States Constitution Amendment VII, Amendment XIV, Section 1, Citizenship, privileges and immunities, due process, equal protection, and Amendment I, redress of grievances.

IN the denial of the Habeas Corpus, the Idaho Court of Appeals states:

> Idaho and Washington, like nearly all other states of the union, have substantially adopted the provisions of the Uniform Criminal Extradition Act. Idaho Code § 19-4503 and Wash. Rev. Code Annot. § 10.88.220 are similar parts of the Act. Both permit extradition where the demand-

> ing state shows by "a copy of an indictment found or by information supported by affidavit in the state having jurisdiction of the crime, or by a copy of an affidavit made before a magistrate there." that the person sought has been charged with a crime.

Does this act become valid when a state has TITLE over a person? Also, does this not contradict and violate the 5th Amendment "indictment by a Grand Jury" clause?

In the denial of the Habeas Corpus, the Idaho Court of Appeals states:

> At the hearing in district court authenticated copies of the requisition documents from Washington were received in evidence. They show that a prosecutor for King County, Washington, filed an information charging Hanson with one felony and thirty-nine misdemeanors. The prosecutor later amended the information to add fifteen more misdemeanors. When the original and amended informations were filed, they were supported by affidavits sworn to before a notary public, but not a magistrate. The charges all arose from Hanson's alleged practice of filing "lis pendens liens" or "common-law liens" against the property of litigants, lawyers, judges, and

> other persons involved in legal controversies concerning Hanson.

The prosecutor of King County who filed the charges against Hanson was one of the parties being sued by Hanson. This is clearly a case of conflict of interest.

The Idaho Court of Appeals further states:

> A superior court judge of King County determined based on the affidavits, that there was probable cause to believe Hanson was guilty of the charges alleged. The judge issued a warrant for Hanson's arrest.

The judge issuing the warrant for petitioner Hanson's arrest is also one of the defendants in the petitioner's case. The judge had no authority to sign a warrant for petitioner's arrest when he was one of petitioner's adversaries, as the petitioner had put a lien on the judge's property some time prior to the issuing of the warrant, which means that the judge and the prosecutor had a

conflict of interest in the case.

In all extradition requisitions, the prosecutor's application must contain the certification that the ends of justice require the arrest and return of the accused to the demanding state for trial and that the proceeding is not instituted to enforce a private claim. The Washington State's extradition requisition did not so state, therefore the request is null and void and habeas corpus must be granted.

After the Court of Appeals decision, my attorney, Mike Vrable, called me on the telephone and advised me that he was resigning from the case and would not take the appeal any further.

Petitioner requested an extension of time from the Idaho courts in order to secure additional legal counsel. He was denied this extension. Petitioner then had to type up all of his own legal

papers.

Upon the resignation of Mr. Vrable, petitioner has received nothing but denials from the Idaho courts, with them not stating any reasons for their denials, but simply denying anything the petitioner requested.

REASONS FOR GRANTING THE WRIT

1. The decision attached conflicts witn the United States Constitution, Article I, Section 9, Clause 2:

> "The Privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it."

2. The decision on page A-1 conflicts with the United States Constitution, Article XIV, Section 1, Citizenship, privileges and immunities, due process, equal protection.

3. It was the intent of the founding fathers who drafted the United States Constitution, that citizens of the United

States of America would be freemen, free of the kind of harassment and intimidation to which the State of Washington has been subjecting the petitioner. It was further the intent of the parties drafting and supporting amendments to the United States Constitution that the citizens of our country would be freemen and they therefore wrote our constitution to establish Justice, insure domestic Tranquility, promote the general welfare of the people (not the rulers) and to secure the Blessings of Liberty to ourselves and our Posterity.

If the decision of the Idaho Court of Appeals is allowed to stand, it can be expected to show to the country at large that there are no longer any rights guaranteed to the people of the United States by the Constitution of the United States.

4. The extradition requisition

prepared by the State of Washington was not certified by the prosecutor in his application "that the ends of justice required the arrest and return of the accused to Washington State for trial and that the proceedings were not instituted to enforce a private claim".

The State of Washington was required to give two certified copies of the extradition requisition to the governor of Idaho and further, this extradition requisition must be accompanied by two certified copies of the court papers involved. This was not done. Therefore the extradition requisition is not proper and is therefore null and void.

CONCLUSION

For the foregoing reasons, a Writ of Right for Order to Show Cause Why a Petition for Writ of Habeas Corpus should issue to review the judgment and opinion of the Idaho State Court of Appeals.

DAMAGES ASKED

Petitioner demands damages in the amount of $7,000,000.00 from the States of Idaho and Washington for false arrest, denying of a Habeas Corpus and malicious abuse of legal process as they have failed to show that they have TITLE over the petitioner.

AFFIDAVIT

I, Gerald P. Hanson, do state that this statement of facts is true and correct to the best of my ability, under penalties of perjury.

Gerald P. Hanson

Gerald P. Hanson
16616 Cedar Grove Rd.
Maple Valley, WN 98038

Petitioner

APPENDIX A

A-1

IN THE COURT OF APPEALS
OF THE STATE OF IDAHO

NO. 13863

IN THE MATTER OF THE APPLICATION OF GERALD P. HANSON, PETITIONER, FOR A WRIT OF HABEAS CORPUS TO INQUIRE INTO THE LEGALITY AND CAUSE OF DETENTION OF GERALD P. HANSON.	April, 1982 Term Filed: August, 18, 1982
GERALD P. HANSON, Petitioner-Appellant, v. ROCKY WATSON, SHERIFF OF KOOTENAI COUNTY, Respondent.	Judy Cizmich, Acting Clerk

Appeal from the District Court of the First Judicial District of the State of Idaho, Kootenai County, Hon. W. E. Prather, District Judge.

Order quashing writ of habeas corpus, affirmed.

Hon. David H. LeRoy, Attorney General, Lynn E. Thomas, Solicitor General, Michael B. Kennedy, Deputy Attorney General, for respondent.

Gerald P. Hanson was arrested in Kootenai County, Idaho, as a fugitive from the State of Washington, where he is wanted on criminal charges. Hanson refused to waive extradition and obtained a writ of habeas corpus in Kootenai County, Idaho, to challenge the extradition. After a hearing the district court quashed the writ and ordered that Hanson be surrendered to Washington authorities. Hanson appealed, contending that his Fifth Amendment rights were violated and that the extradition documents were not in order because they did not show he was charged in Washington by either an "indictment" or an "affidavit made before a magistrate." We affirm the order of the district court.

Idaho and Washington, like nearly all other states of the union, have substantially adopted the provisions of the Uniform Criminal Extradition Act.

Idaho Code § 19-4503 and Wash. Rev. Code Annot. § 10.88.220 are similar parts of the Act. Both permit extradition where the demanding state shows by "a copy of an indictment found or by information supported by affidavit in the state having jurisdiction of the crime, or by a copy of an affidavit made before a magistrate there," that the person sought has been charged with a crime.

At the hearing in district court authenticated copies of the requisition documents from Washington were received in evidence. They show that a prosecutor for King County, Washington, filed an information charging Hanson with one felony and thirty-nine misdemeanors. The prosecutor later amended the information to add fifteen more misdemeanors. When the original and amended informations were filed, they were supported by affidavits sworn to before a notary public, but

not a magistrate. The charges all arose from Hanson's alleged practice of filing "lis pendens liens" or "common-law liens" against the property of litigants, lawyers, judges, and other persons involved in legal controversies concerning Hanson.

A superior court judge of King County determined, based on the affidavits, that there was probable cause to believe Hanson was guilty of the charges alleged. The judge issued a warrant for Hanson's arrest.

Following Hanson's arrest in Idaho, the Washington governor sent a requisition request to the governor of Idaho. The governor of Idaho issued a rendition warrant ordering the Sheriff of Kootenai County to deliver Hanson to an authorized agent of the State of Washington. The habeas corpus proceedings in district court followed.

Hanson contends in this appeal

that, because the criminal charges were not based on an indictment from a grand jury, his extradition would violate his rights under the Fifth Amendment of the United States Constitution. Hanson's argument is that the Fifth Amendment requires an indictment from a grand jury, before a person can be tried in federal courts. He admits that such a requirement is not binding upon the states. (Petitioner's note: Petitioner denies admitting this statement.) See Beck v. Washington, 369 U.S. 541 (1962). But he argues that, because a state's right to extradite is based on federal law, a state seeking to extradite him ought not to be able to have him held for trial without complying with all federal law, including the Fifth Amendment requirement of an indictment. We disagree.

Article 4, Section 2, of the United

States Constitution provides that:

> (a) person charged in any state with treason, felony, or other crime, who shall flee from justice, and be found in another state, shall on demand of the executive authority of the state from which he fled, be delivered up, to be removed to the state having jurisdiction of the crime.

This provision is not self-executing. Roberts v. Reilly, 116 U.S. 80 (1885). Congress enacted what is now 18 U.S.C. § 3182 as an aid to the execution of Article 4, Section 2. See Pierce v. Creecy, 210 U.S. 387 (1908). This statute provides that the executive authority of an asylum state shall surrender a person demanded by the executive authority of another state upon the production of "a copy of an indictment found or an affidavit made before a magistrate" charging the person demanded with having committed a crime in that state. The court in Pierce, supra, stated that "the Constitution does not require, as an

indispensable prerequisite to interstate extradition, that there should be a good indictment, or even an indictment of any kind."Id. at 403. Therefore we hold the Fifth Amendment does not require an indictment of Hanson by a grand jury in Washington before he can be extradited to that state.

Hanson next contends that the provisions of 18 U.S.C. 3182 conflict with those in I.C. § 19-4503 because the federal statute makes no mention of "an information supported by an affidavit." Hanson argues that because the federal extradition law is supreme it precludes application of the state law. Again we must disagree.

Hanson cites Application of Williams, 76 Idaho 173, 279 P.2d 882 (1955) for the proposition that the "indictment" requirement of 18 U.S.C. § 3182 is controlling over the provisions of the Uni-

form Criminal Extradition Act which permit the charge to be made by "an information supported by an affidavit." In Williams the Idaho Supreme Court upheld extradition to Oregon, over Williams' argument that I.C. § 19-4503 required a copy of the warrant from the demanding state to accompany the copy of the indictment. There is no requirement in the federal constitution or in 18 U.S.C. § 3182 that a warrant of arrest be issued or that a copy of a warrant be produced by the demanding state. The court in Williams, quoting from 35 C.J.S. Extradition § 3, pp. 319-20, said:

> * * * the right of interstate extradition or rendition is founded on and controlled by the constitution of the United States and effectuating federal statutes, which have been declared constitutional. Extradition being a federal and not a state matter, the federal law, and not the state law, is supreme, and any state legislation which conflicts with the federal law on the subject, as embodied in the constitution and effectuating statutes, is unconstitutional and void. However, to the extent that it

> aids and facilitates the operation of federal constitutional and statutory provisions, and is not inconsistent therewith, state legislation is proper, and must be followed.

76 Idaho at 176-77, 279 P.2d 883-84. The Court in Williams went on to say:

> (W)e are constrained to hold that the phrase "together with a copy of any warrant which was issued thereon" appearing in Section 19-4503, I.C., violates the federal statute and is void. (Id. at 178, 279 P.2d at 885.)

If we were to follow Hanson's view of the Williams ruling in this case, we would be required to hold that, because the federal act makes no mention of an "information," the state laws are in conflict with the federal act and are therefore void. We do not believe such a result was intended or is required by the decision in Williams. The Idaho court struck down a provision in I.C. § 19-4503 that imposed a requirement for extradition of a defendant that is not present in the Congressional act. Such a provision

burdened the procedure for extradition and the Idaho court correctly ruled that it was void. However, it does not necessarily follow that a provision enabling a state to extradite on less exacting terms than those set forth in 18 U.S.C. § 3182 must also be held void under the Williams decision.

Many state courts have held that even under the federal act the provision in § 3182 for an "indictment" includes an "information" where an information is authorized by state law as a procedural device for charging a person with a crime. The courts have further held that a state statute authorizing extradition upon an "information" supported by an affidavit does not burden the scheme contemplated by the federal statute, and therefore does not conflict with it. For example, in People v. Baker, 114 N.E.2d 194, 196-97 (N.Y. 1953) the New

York Court of Appeals said:

> We think the warrant of extradition was properly issued. While there is merit in the view taken...that an information is a sufficient compliance with the Federal statute, and while there is ample authority in support of that view (citations omitted), we predicate our determination herein on the theory...that a State may enact legislation to supplement the Federal statute by permitting extradition on less exacting terms than those imposed by the latter statute. This theory has already been acknowledged in other jurisdictions, in treatises, and by those who prepared the Uniform Criminal Extradition Act, Gulley v. Apple, 213 Ark. 350, 357, 210 S.W.2d 514; Matter of Davis, 68 Cal.App.2d 798, 158 P.2d 36; Stark v. Livermore, 3 N.J. Super. 94, 98-99, 65 A.2d 625, 627; Ex parte Bledsoe, Okla.Cr.App., 227 P.2d 680; 22 Am. Jur., Extradition, p. 250, n. 1; 9 Uniform Laws Ann., p. 170.
>
> At most, the Federal extradition statute prescribes those terms upon which a State shall extradite. It does not purport, expressly or impliedly, to prohibit a State from extraditing on less exacting terms. It seems to us that relator's contention that there must be literal compliance with the Federal statute before a State may voluntarily extradite is patently unsound.

In a similar vein the California District Court of Appeal, Second District, in re Morgan, 53 Cal. Rptr. 642, 647 (1966), held as follows:

> While state laws cannot place limitations upon the extradition which is required by federal law, the state Legislature may permit the Governor to surrender a fugitive on terms less exacting than those imposed by the act of Congress.

See also: In re Strauss, 197 U.S. 324 (1905); People v. Smith, 186 N.E. 159 (Ill. 1933); State Ex Rel. Brown v. Telander, 163 N.W.2d 858 (Minn. 1968); Stark v. Livermore, 65 A.2d 625 (N.J. Sup. Ct., App. Div. 1949); People v. Britt, 92 N.Y.S.2d 662 (1949); Ex Parte Peairs, 283 S.W.2d 755, (Ct. Crim. App. Tex. 1955); and State Ex Rel. Sieloff v. Golz, 258 N.W.2d 700 (Wis. 1977).

Our analysis of the ruling by the Idaho Supreme Court in Williams, supra, and the rulings in the other cases cited above leads us to conclude that they do

not support Hanson's position. We uphold the validity of I.C. § 19-4503, allowing extradition where it is shown that the laws of the demanding state authorize a criminal charge to be made by an information, and where a copy of the information supported by an affidavit accompanies the demand for extradition.

In this case an "Affidavit for Probable Cause" and another affidavit and motion were submitted to a superior court judge and filed with the information on August 14, 1979. The record shows the judge reviewed the information and affidavits and found probable cause to issue a warrant of arrest for Hanson. On November 13, 1979, a motion and affidavit were also submitted to another judge, who authorized the filing of the amended information. Thus it is clear from the record that the amended information was supported by affidavits as required

by I.C. § 19-4503. We also hold that the affidavit supporting the information need not be signed before a magistrate. The terms of the statute do not require it.

We affirm the district court's order quashing the writ of habeas corpus.

WALTERS, C.J., and BURNETT, J., concr.

APPENDIX B

B-1

Under date of December 30, 1982, the Supreme Court of the State of Idaho wrote the petitioner a letter denying a hearing on his appeal.

The Supreme Court failed to give a written decision, and simply denied a hearing. Further, there was no explanation whatsoever as to why they would not hear the case.

CERTIFICATE OF SERVICE

I hereby certify that on this 7th day of March, 1983, three copies of the Petition for Writ of Right for Order to Show Cause Why a Petition for Writ of Habeas Corpus should not be issued by the United States Supreme Court were mailed, postage prepaid to Lynn E. Thomas, Solicitor General, State House, Boise, Idaho, counsel for Respondents. I further certify that all parties required to be served have been served, under penalties of perjury.

Gerald P. Hanson

Gerald P. Hanson
16616 Cedar Grove Rd.
Maple Valley, WA 98038

Petitioner

cc: Governor of the State of Idaho
Clerk of the Idaho State Supreme Court